

ISSUE BRIEF

December 18, 2025

Case No. U-21990, DTE Electric's Application for Approval of Special Contracts



1. What did DTE Electric request?

On November 3, 2025, DTE Electric (DTE or the Company) filed an application with the Commission in MPSC [Case No. U-21990](#) seeking approval of two special contracts with Green Chile Ventures, LLC. (the Customer), which plans to build and operate a Data Center in Saline Township. The two contracts are a Primary Supply Agreement, which would govern the terms and conditions of electric service provided to the Customer, and an Energy Storage Agreement, which details the terms under which DTE Electric would develop and procure approximately 1400 megawatts (MW) of energy storage resources (the special contracts).

2. What is the Commission's authority related to the proposed Data Center?

Michigan law gives the MPSC jurisdiction over the electricity and natural gas rates that a data center customer is charged and the terms governing the services provided by regulated utilities. The Commission does not have authority relating to the siting or construction of data centers, or to issue permits or make determinations related to water use. For this data center, and in this application, the Commission's jurisdiction is limited to review and approval or rejection of the special contracts. The Commission does have the authority to require specific provisions related to additional customer protections and has the ability to condition approval of the contracts.

3. What is a special contract?

According to the Commission's rules, a special contract is a "rate schedule for utility service provided to a customer under a negotiated agreement providing rates or rules and regulations other than those listed in the utility's rate book." (Mich Admin Codes, R. 460.2012) (Example is on page 3 #8)

4. What are the terms of the proposed Primary Supply Agreement?

Under the terms of the Primary Supply Agreement, the Customer would take service under DTE's existing Commission-approved D11 tariff rate, which is a rate available to any customer who contracts for a specific amount of energy above 50 kilowatts and who wants service at "primary, sub-transmission, or transmission voltage." The Primary Supply Agreement includes additional terms of service beyond those included in the Company's standard D11 tariff including:

- A minimum contract duration for the Primary Supply Agreement of 19 years.
- A minimum billing demand of 80% of the amount of electricity under contract.
- A termination payment of up to 10 years of the minimum demand charges if the Customer ends operations earlier than expected.
- Credit and collateral requirements.

5. What is “minimum billing demand”?

“Minimum billing demand” sets a minimum amount that a customer will pay each billing cycle even if actual usage is less. In the Primary Supply Agreement approved in this case, it is 80% of the Customer’s contracted monthly electric use. If the customer uses more than 80% minimum billing demand, they pay for the full cost of the actual electricity used.

6. What are the terms of the proposed Energy Storage Agreement?

Under the terms of the proposed Energy Storage Agreement, the Customer would pay for the development of approximately 1.4 gigawatts (GW) of energy storage facilities to match the amount of the Customer’s contracted demand.

Under the terms of the proposed Energy Storage Agreement, DTE would own, develop, install, and operate the energy storage facilities to benefit the system as a whole. The facilities would be procured through a mix of contracting with third party developers and development by the Company. Procurement of the facilities would be reviewed in future filings with the Commission.

The Energy Storage Agreement provides that the Customer would pay the full cost for the energy storage facilities over a 15-year period, and the Customer would receive the value of any market revenues earned from operating the energy storage assets in the wholesale market.

The Energy Storage Agreement also includes a termination payment as well as credit and collateral requirements to ensure the Customer pays the full price of all the energy storage built.

7. Is a special contract necessary for DTE to provide electric service to the Customer?

No. DTE could serve the Customer under the Company’s existing D11 tariff. However, service under the existing D11 tariff would not include the additional protections of the special contracts including the agreement of the Customer to pay for specific energy storage resources in addition to the existing D11 tariff rate, the termination payment, or the credit and collateral requirements.

8. If a special contract is not necessary for DTE to serve the Customer, why was one filed for Commission approval?

While the Customer would qualify for service under the Company's existing D11 tariff, the Primary Supply Agreement includes terms and conditions of service that are different from those provided in the standard tariff. Pursuant to Commission rules, a utility must receive Commission approval where the utility "enters into a special contract to provide service in a manner or at a rate not specifically covered by its filed rate schedules or rules and regulations." (Mich Admin Code, R. 460.2031) In addition, the Energy Storage Agreement outlines a plan to ensure that DTE Electric will have enough resources to serve the Customer, which would not have been the case had DTE Electric not filed for approval of the special contracts. The primary benefit to DTE Electric and its customers under the special contracts is added protections beyond those in the existing tariff, including termination payments and credit and collateral protections if the customer doesn't meet its obligations under the contract. The primary benefit to the customer is the ability to obtain electrical service at a scale and timeline that meets its business needs.

9. What does it mean when a company asks the Commission to review an application *ex parte*?

A company that asks the Commission to review an application *ex parte* is asking that the Commission review the application without using the full contested case process that allows for other parties to formally present evidence.

10. Is *ex parte* review a typical process for Commission review of special contracts?

Yes. *Ex parte* review of applications is not uncommon and is appropriate when the Commission reviews applications that are not related to setting rates or where a contested case is not otherwise required by law. Many applications are reviewed through the *ex parte* process and most special contracts are reviewed *ex parte* because special contracts are typically executed between a utility and a single customer or entity, and approval of such contracts does not impact the rates or provisions of service for other utility customers. In recent years, the Commission has approved special contracts between utilities and Ford Motor Company, Fiat Chrysler Automobiles, and the University of Michigan, among others, all on an *ex parte* basis.

11. What is the legal standard for reviewing an application *ex parte*?

Under Michigan law, an application may be reviewed *ex parte* if it "will not result in an increase of the cost of service to [the applicant's] customers." ([MCL460.6a\(3\)](#)) In considering *ex parte* review of a special contracts, the Michigan Court of Appeals has found that *ex parte* review was

appropriate in a case in which “mere approval and implementation of the contract, without more, will not result in any rate or cost increases.” *Attorney General v Pub Serv Comm*, 227 Mich App 148; 575 NW2d 302 (1997).

12. Does the application meet the standard for *ex parte* review?

Yes. While several parties expressed concerns related to resource planning and other issues in their request for a contested case, the Commission found that the application meets the standard for *ex parte* review because “conditional approval of the special contracts will not result in an increase to the rates, rate schedules, or costs of service for any customers.” This is consistent with language from the Court of Appeals decision that noted that “all interested parties will have ample opportunity for notice and a hearing in the event [the utility] ever seeks an actual rate increase in order to recover the lost revenue resulting from the ... contract.”

Importantly, the Commission goes further than required, and expressly conditioned its approval on the requirement that “all current and future costs caused by the Customer shall be covered by the Customer or by DTE Electric and not existing customers.” (December 18, 2025 Order, Pg. 32)

13. What is the legal standard for approval of a special contract?

To approve a special contract, the Commission must find that approval is in the public interest.

14. What did the Commission find relative to the public interest in reviewing the special contracts?

The Commission found that approval of the special contracts serves the public interest by “[the Customer’s] contribution to the fixed costs that would otherwise be recovered from other ratepayers through both base rates and [Power Supply Cost Recovery] surcharges, creating the affordability benefit, as well as through the construction of approximately 1.4 GW of incremental energy storage resources, fully funded by the Customer, that add additional benefits to the broader electrical grid.” (December 18, 2025 Order, Pg. 33)

15. Did the Commission approve the special contracts?

The Commission provided conditional approval for the special contracts. The Commission found that “approval of the special contracts will not increase rates, rate schedules, or the costs of service to customers. The terms and conditions of the [special contracts] reflect distinct protections for the utility with respect to stranded costs, mitigate cost subsidization for existing customers, and provide an opportunity for a benefit to existing customers in the form of increased affordability due to the increased share of fixed costs that will be borne by

the Customer. . ." (December 18, 2025 Order, Pg. 32) As noted above, this approval is expressly conditioned on an express commitment from DTE Electric that "all current and future costs caused by the Customer shall be covered by the Customer or by DTE Electric and not existing customers." (December 18, 2025 Order, Pg. 32)

16. What additional requirements and directives did the Commission include in its approval of the special contracts?

Several additional requirements were included as part of the Commission's approval of the special contracts:

- DTE Electric must file an amended Renewable Energy Plan when it files its next Integrated Resource Plan and initial Clean Energy Plan. The application for approval of the amended Renewable Energy Plan "shall include a comparison of the resource requirements needed to comply with the [Renewable Portfolio Standard] targets both with and without the Customer's load and corresponding retail sales." The amended Renewable Energy Plan application must also include options for equitable cost recovery and "ensure that costs and benefits are distributed among rate classes appropriately." (December 18, 2025 Order, Pg. 35)
- In the Company's next Integrated Resource Plan application and Clean Energy Plan filing, the Company must provide "a comparison of the resource requirements necessary to serve the Company's load with and without the addition of the Customer's load." (December 18, 2025 Order, Pg. 35)
- DTE Electric must provide an updated analysis in its next capacity demonstration filing that demonstrates the impact of the Customer on the Company's capacity requirements. (December 18, 2025 Order, Pg. 37)
- DTE Electric must file an application for a generally applicable large load customer tariff within 90 days of the Commission's order. (December 18, 2025 Order, Pg. 39-40)
- DTE Electric must file a "cost allocation and rate design proposal in its next general rate case that ensures that any future large load interconnection customers are paying the costs of interconnection." The Order specifies the criteria of six different cost allocation and rate design studies that DTE Electric must file and directs the DTE Electric to provide in that filing "all data necessary to allow the Staff and intervenors to recreate the proposals . . ." (December 18, 2025 Order, Pg. 40)
- Also in its next rate case, DTE Electric must file "a proposed administrative fee to be charged to potential additional data centers and other large loads to ensure the costs associated with any interconnection or other studies performed for these potential customers are not absorbed by existing customers." (December 18, 2025 Order, Pg. 41)

- DTE Electric must file an application to update its Emergency Electric Procedures within 90 days of the date of the order. This is to ensure that the addition of this significant new load will not adversely impact the grid reliability experienced by other customers. (December 18, 2025 Order, Pg. 42)
- The Commission also required DTE Electric to provide quarterly reports in the docket detailing “(1) the Customer’s load profile for the previous quarter; (2) the amount of storage that is operational as of the end of that quarter; (3) the Customer’s total demand for the preceding 12 months, compared to expected contract capacity and MBD; (4) any changes to the Customer’s credit rating that trigger a change to the credit and collateral terms; and (5) DTE Electric’s assessment of the financial state of the Customer.” Additionally, on an annual basis, the December 31 report “shall include any other information related to the realization of the projected affordability benefit..” (December 18, 2025 Order, Pg. 42-43)

In short, the Commission conditioned its *ex parte* approval of the special contract on commitments from DTE Electric that no costs of serving the data center Customer will be borne by other DTE customers. Therefore, the Commission ordered that, “in the event of a failure to pay the [Minimum Billing Demand] under the [Primary Supply Agreement] , or in the event of a termination, default, or other event whereby DTE Electric is required to draw on the letter of credit or parental guaranty, **if the company determines that the specified collateral is not sufficient to cover the full amount of the remaining financial exposure associated with the [the special contracts] (minus the value to customers), the Commission specifically cautions DTE Electric that any unrecovered costs shall not be borne by ratepayers and that DTE Electric bears responsibility for any remaining liability.**” The Commission concluded, “**All risk associated with the sufficiency of the collateral shall be borne by DTE Electric.**” (December 18, 2025 Order, Pg. 41-42) (emphasis added)

17. Does the Commission’s decision set a precedent for approving any future special contract applications?

No. Approval of the special contracts does not apply to any other customer other than the Customer who is a party to the contract. Notably, the Commission Order directs DTE to file an application for a generally applicable large load customer tariff in a contested case proceeding that would apply to future similarly situated customers. (December 18, 2025 Order, Pg. 40)

18. As provided in the application, the special contracts include significant redactions. How could a thorough review of the contracts be conducted given these redactions?

Complete, unredacted copies of both special contracts were made available to the Commission and Commission Staff. Staff performed a review of the unredacted contracts and audit of the application and testimony. (December 18, 2025 Order, Pg. 32)

19. Are there any next steps related to the Commission's approval?

Yes. The Commission notes that the conditions of its approval do not require amendment to the special contract and so directs DTE to file a letter in the docket within 30 days accepting the conditions provided in the Order. If the Company does not agree to the conditions of the Commission's approval, it may file an application for review of the special contracts through a contested case. (December 18, 2025 Order, Pg. 41)

The Commission order also notes that it may reopen the case "at any time and/or issue an order to show cause if DTE Electric's claimed affordability benefit fails to materialize or vanishes and costs associated with serving the Customer are expected to fall upon existing customers." (December 18, 2025 Order, Pg. 43)

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